



California Regional Water Quality Control Board

San Diego Region



Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

March 10, 2005

CERTIFIED-RETURN RECEIPT REQUESTED
7004 1160 0007 0640 2651

James R. McCann
JRM Real Estate, Inc.
1040 S. Andreasan Drive, Suite 200
Escondido, California 92029

In reply refer to:
10-3020081.02:melbf

Dear Mr. McCann:

Complaint No. R9-2005-0059 For Administrative Civil Liability Against JRM Real Estate, Inc. for Violation of California Water Code § 13376, State Board Order No. 99-08-DWQ, and CAO No. R9-2004-0420, Escondido Research and Technology Center (WDID No. 9 37S320081) and Required Technical Report Pursuant to Water Code §§ 13267 & 13383

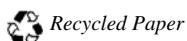
Enclosed find Administrative Civil Liability Complaint No. R9-2005-0059 against JRM Real Estate, Inc. (JRM) for the Escondido Research and Technology Center (ERTC) construction site located near Vineyard Avenue in Escondido, California, WDID No. 9 37S320081. The Complaint in the amount of \$1,260,600 is for violations of California Water Code section 13376, Order No.99-08-DWQ, *National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity (General Permit)*, and Cleanup and Abatement Order (CAO) No. R9-2004-0420.

Be aware that JRM may waive its right to a hearing before the California Regional Water Quality Control Board, San Diego Region (Regional Board). Waiver of the hearing constitutes admission of the validity of the allegation of violations in the Complaint and acceptance of the recommended assessment of civil liability in the amount of \$1,260,600 as set forth in the Complaint. Please note that any waiver will not be effective until reasonable opportunity for public participation has been provided pursuant to federal National Pollutant Discharge Elimination System (NPDES) regulations (40 Code of Federal Regulations [CFR] Parts 122, 123, and 124). The Regional Board will notify interested persons of any proposed settlement for the recommended liability and will solicit comments on the settlement for a period of thirty (30) days. In order for the Regional Board to accept the waiver of your right to a public hearing, JRM must submit the following by 5:00 p.m., Friday **April 8, 2005**:

1. The enclosed waiver form signed by an authorized agent of JRM; and
2. A cashier's check for the full amount of civil liability of \$1,260,600.

Waivers submitted after April 8, 2005 will not be accepted.

California Environmental Protection Agency



**Mr. James R. McCann
JRMCM Real Estate, Inc.
Escondido Research & Technology Center
ACL Complaint No. R9-2005-0059**

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March 10, 2005

If JRMCM does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on June 8, 2005, at the Regional Board. An agenda, with procedures for the hearing will be mailed to you not less than ten days before the hearing date. The meeting is scheduled to begin at 9:00 a.m.

If JRMCM intends to present any written exculpatory evidence, or written evidence in mitigation at the hearing in response to Complaint No. R9-2005-0059, it must be received by 5:00 PM, Wednesday April 27, 2005 in order to be considered by the Regional Board at the public hearing. Please submit twenty (20) copies of any response, including evidentiary exhibits. Copies of material submitted will be forwarded to the Regional Board Members prior to the public hearing.

The Regional Board has established a written public comment period to solicit input on the Complaint. This includes publishing a notice in a local newspaper. The written public comment period for the Complaint ends at 5:00 PM Wednesday April 27, 2005. Oral comments can be made during the June 8, 2005 public hearing.

Please contact Frank Melbourn of my staff at (858) 467-2973 or FMelbourn@waterboards.ca.gov if you have any questions concerning this matter.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

Sincerely,



JOHN H. ROBERTUS
Executive Officer

Mr. James R. McCann
JRMC Real Estate, Inc.
Escondido Research & Technology Center
ACL Complaint No. R9-2005-0059

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March 10, 2005

JHR:mpm:mja:ftm

Enclosures: 1. ACL Complaint No. R9-2005-0059
2. Waiver of Hearing Form

Copy with 1. James Berbrich, busyberbs@cox.net
Enclosures 2. Ellen Blake, US EPA Region IX, blake.ellen@epa.gov
: 3. Leo Brendis, lbrendis@hotmail.com
4. Connie Bruins, CA Energy Commission, cbruins@energy.state.ca.us
5. Thomas Jennings, Palomar Energy, tjennings@sempira-res.com
6. Mr. and Mrs. Klavzars, klavzars@ifriendly.com
7. Phyllis Laderman, pjladerman@cox.net
8. Richard Latteri, CA Energy Commission, rlatterri@energy.state.ca.us
9. Gentry McCormick, cjsgrm@cox.net
10. Warden Liz Pedro, CA Dept. of Fish & Game, lpedro@dfg.ca.gov
11. Mark Rodriguez, marknrodriguez@cox.net
12. Kevin Slatnick, KS@raveontech.com
13. Patrick Thomas, City of Escondido, pthomas@ci.escondido.ca.us

S:\Compliance Assurance\Enforcement Orders\ACL\Escondido R&T Ctr\R9-2005-0059 Complaint Transmittal.DOC

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

JRMC REAL ESTATE, INC.
ESCONDIDO RESEARCH AND
TECHNOLOGY CENTER

NONCOMPLIANCE WITH CALIFORNIA
WATER CODE § 13376, STATE BOARD
ORDER NO. 99-08-DWQ, AND CAO NO. R9-
2004-0420

)
) COMPLAINT NO. R9-2005-0059
) FOR
) ADMINISTRATIVE CIVIL LIABILITY
)

) March 10, 2005
)
)

JRMC REAL ESTATE, INC. IS HEREBY GIVEN NOTICE THAT:

1. JRMC Real Estate, Inc. (JRMC) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability under sections 13350 and 13385 of the California Water Code.

ALLEGATIONS

2. **Discharge of Sediment to a MS4 and Waters of the United States**

JRMC discharged sediment to a Municipal Separate Storm Sewer System (MS4) and navigable waters of the United States in the San Diego Region in violation of Order No. 99-08-DWQ of the California State Water Resources Control Board (State Board), section A.2. JRMC discharged sediment from the Escondido Research and Technology Center (ERTC) site to Escondido Creek directly or via the City of Escondido's MS4 on at least eighty-two (82) days:

- | | |
|-----------------------|--|
| 1. February 22, 2004; | 6. October 20, 2004; |
| 2. February 23, 2004; | 7. October 27, 2004; |
| 3. February 26, 2004; | 8. October 28, 2004; |
| 4. October 18, 2004; | 9. December 13, 2004; and |
| 5. October 19, 2004; | 10. December 28, 2004 through
Present (73 days and counting). |

3. **Failure to Implement Storm Water Pollution Prevention Plan**

JRMC failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to install and maintain adequate Best Management Practices (BMPs) in violation of Order No. 99-08-DWQ section C.2 on at least 166 days:

1. February 22 through 26, 2004 (5 days); and
2. October 1, 2004 through Present (161 days and counting).

JPMC Real Estate, Inc.

Escondido Research & Technology Center

4. Failure to Monitor Storm Water Runoff Discharges

JPMC failed to sample at all of the required locations, and failed to analyze for all of the required constituents in violation of Cleanup and Abatement Order (CAO) No. R9-2004-0420 Directive No. 4 on at least 16 days:

- | | |
|-----------------------|----------------------------|
| 1. November 21, 2004; | 9. January 11, 2005; |
| 2. December 5, 2004; | 10. February 11, 2005; |
| 3. December 28, 2004; | 11. February 12, 2005; |
| 4. December 29, 2004; | 12. February 18, 2005; |
| 5. January 3, 2005; | 13. February 19, 2005; |
| 6. January 7, 2005; | 14. February 21, 2005; |
| 7. January 8, 2005; | 15. February 22, 2005; and |
| 8. January 9, 2005; | 16. February 23, 2005. |

5. Failure to Assess BMPS After Storm Events

JPMC failed to assess the erosion and sediment control BMPs on site after each significant rainfall event in violation of CAO No. R9-2004-0420 Directive No. 5 and Order No. 99-08-DWQ section C.4 on at least 16 days. See paragraph 4.


6. Failure to Submit Status Reports

JPMC failed to submit status reports within seven days of significant rainfall events in violation of CAO No. R9-2004-0420 Directive No. 6 on at least 16 days. See paragraph 4.

PROPOSED CIVIL LIABILITY

7. Based on consideration of the factors listed in sections 13327 and 13385 of the California Water Code, civil liability should be imposed on JPMC in the amount of \$1,260,600 for all violations, as follows:
- a. \$820,000 for the violations described in paragraph No. 2;
 - b. \$415,000 for the violations described in paragraph No. 3;
 - c. \$9,600 for the violations described in paragraph No. 4;
 - d. \$8,000 for the violations in paragraph No. 5; and
 - e. \$8,000 for the violations in paragraph No. 6.

Dated this 10th day of March 2005



John H. Robertus
Executive Officer



California Regional Water Quality Control Board

San Diego Region



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WAIVER OF RIGHT TO A PUBLIC HEARING

Mr. James R. McCann
JRMCM Real Estate, Inc.
1040 S. Andreasan Drive, Suite 200
Escondido, California 92029

Complaint No. R9-2005-0059
For
Administrative Civil Liability
\$1,260,600

WDID No. 9 37S320081
Escondido Research and Technology Center

By signing below, I agree to waive JRMCM Real Estate, Inc.'s right to a public hearing before the California Regional Water Quality Control Board, San Diego Region with regards to the violations alleged in the above referenced Complaint and to remit payment for the civil liability imposed. I understand that I am authorized to give up JRMCM Real Estate, Inc.'s right to be heard, and to argue against the allegations made by the Executive Officer in the Complaint, and against the imposition of, or the amount of, civil liability proposed. I have enclosed a cashier's check or money order made payable to the State Water Resources Control Board for the civil liability imposed.

Signature

Title

Date

Print your name

Send this signed form to:

John H. Robertus, Executive Officer
C/O Compliance Assurance Unit
California Regional Water Quality Control Board – San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

California Environmental Protection Agency

